IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

TUESDAY, THE 16TH JANUARY 2007 / 26TH PAUSHA 1928

WP(C).No. 249 of 2007(D)

PETITIONER:

B.JAYAKUMAR @ ANAD JAYAN,
BHASKARA VILASOM, VAZHETTUKONAM,
NEDUMANGAD, THIRUVANANTHAPURAM.

BY ADV. SRI.D.SOMASUNDARAM

RESPONDENTS:

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1. SECRETARY TO GOVERNMENT CO-OPERATION DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

2. REGISTRAR OF CO-OPERATIVE SOCIETIES, THIRUVANANTHAPURAM.

BY SENIOR GOVERNMENT PLEADER, SRI P.N.SANTHOSH

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 16/01/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.M.JAMES, J.

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W.P.(C) No. 249 of 2007 (D)

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Dated this the 16th day of January, 2007

J U D G M E N T

The writ petitioner was a member of the Anad Farmers Service Co-operative Bank. He was delegated to the District Co-operative Bank, Thiruvananthapuram, and in that capacity, he was elected to the Managing Committee of the District Co-operative Bank. However, after the term of the office in Anad Farmers Service Co-operative Bank, a new committee was elected. Accordingly, a new delegate was also sent to the District Co-operative Bank. Thus, the writ petitioner ceases to be the committee member of the Anad Farmers Service Co-operative Bank and the District Co-operative Bank as well. The contention of the writ petitioner is that he was delegated by the Administrative Committee who was controlling the administration of the Anad Farmers Service Co-operative Bank. Therefore, he cannot be withdrawn from the membership of the District Co-operative Bank. The order of withdrawal is under challenge through an appeal before the first respondent, Secretary to Government of Kerala.

Therefore, prayed that a direction may be issued to the first respondent Society to hear and dispose of the appeal pending before the Secretary.

2. Section 28 of the Kerala Co-operative Societies Act, 1969, gives a term of five years to a committee which has been constituted by a general body and, Rule 44A of the Kerala Co-operative Society Rules, in short 'the Rules', gives him the right to vote and represent the Society from which he had been delegated. However, Rule 46(g) of the Rules lays down that a delegate of one Society, sitting on the committee of another Society shall cease to be a member of such committee, when he ceases to be a member of the Society which he represented [Rule 46 (f)] and also when an elected committee of the Society which he represented enters upon office, unless he is one among the members of the committee which entered upon office [Rule 46(g)].

3. The facts as well as the law are so clear that when the writ petitioner was not elected to the committee of the Primary Society, Anad Farmers Service Co-operative Bank and, he ceased to be a committee member, and also when a new delegate had been appointed to represent the Primary Society to the District Co-

operative Bank, by the newly elected committee members, the writ petitioner cannot claim that, he had been delegated to the District Co-operative Bank by the Administrators, who relinquished office on the new elected committee members assuming office. Therefore, in the light of Rule 46(f) and (g) of the Rules, the challenge of the writ petitioner, that he continues to be the delegate of the Anad Farmers Service Co-operative Bank and therefore, continues in the District Co-operative Bank, Thiruvananthapuram, is unsustainable.

4. In the above facts and law, I find that no further orders are necessary in this writ petition, as he is no more the elected member of the committee of the Anad Farmers Service Co-operative Bank and also not delegated to represent that Co-operative Bank to the District Co-operative Bank, Thiruvananthapuram.

The writ petition is closed as above.

(J.M.JAMES)
Judge

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